

Application Serial No.: 10/626,311
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REMARKS/ARGUMENTS

This amendment is submitted in response to the Final Rejection dated December 1, 2004 and the Examiner Interviews of February 17, 2005 and February 25, 2005. After entry of this amendment, claims 1-9 and 14-20 will be pending in the application. The claims have been amended to clarify language in the claims and to incorporate Supervisory Patent Examiner John Calvert's suggested limitation, which, according to Mr. Calvert, possibly places the application in condition for allowance, as discussed during the telephone interview of February 25, 2005. Reconsideration and allowance is respectfully requested in view of the amendments made and the remarks made below.

1. Examiner Interviews

The Applicant would like to thank Examiner Muromoto for granting the Applicant a personal interview on February 17, 2005. During the Interview an exhibit was shown of the exercise mat. The Exercise mat shown corresponded to Figure 1 of the application and demonstrated the texture and feel of the exercise mat. Proposed amendments to claim 1 were discussed in view of U.S. Patent No. 1,846,751 to Patterson. The proposed amendments discussed involved amending the claims to clarify language in the claims reflecting the orientation of the contours. The applicant's arguments reflected that the orientation of the contours in Patterson did not correspond to the orientation of the contours in the applicant's invention. Examiner Muromoto suggested the incorporation of additional claim language reflecting the variable spacing of the contours. He felt that such an amendment would place the application in better condition for allowance. At the close of the interview, examiner Muromoto indicated that his suggested language could be entered via an Examiner's Amendment upon request of the applicant.

On February 25, 2005, Examiner Muromoto informed the applicant's representative, Tod Kupstas, Esq., that the Examiner's suggested additional claim language would not place the application in condition for allowance. Supervisory Patent Examiner Calvert also discussed the claim language with the applicant's representative, Tod Kupstas, Esq.

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The Applicant would additionally like to thank Supervisory Patent Examiner Calvert for taking the time to discuss the application. Supervisory Patent Examiner Calvert indicated that language directed to the supplementary wefts, which are described on pages 4 and 5 of the applicant's specification and claimed in claim 9, would likely distinguish the claims of the present application from U.S. Patent No. 1,846,751 to Patterson and would place the Application in better condition for allowance. The Applicant has taken this suggestion of Supervisory Patent Examiner Calvert and has further amended claim 1 of the application to incorporate language directed to the supplementary wefts, taken from original claim 9 of the application.

2. Rejection under 35 U.S.C. § 102(b)

Claims 1-3, 5-13, and 17-21 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 1,846,751 to Patterson (hereinafter "Patterson"). Independent claim 1 has been amended in order to clarify the claim language and to incorporate subject matter that was indicated by Supervisory Examiner Calvert as defining the instant invention over Patterson. Claims 10-13 and 21 have been canceled. The Applicant respectfully submits that Patterson does not meet each and every limitation of the claims as amended.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Claim 1 has been amended to clarify language directed to the shape of the contours shown in Figures 1 and 4. As claimed, each contour is required to have "a longer dimension and a shorter dimension, wherein the longer dimension of each of said contours is oriented substantially perpendicular to the second edge of said exercise surface, wherein each said contour is substantially linear and substantially parallel to each other contour in the direction of the longer dimension [of the contour]." The orientation and direction of the contours creates gripping areas at the upper portion 19 and the lower portion 21 of the exercise rug while leaving the central portion 22 free of contours. This provides a space for performing certain exercises that may not require increased grip that is free of contours, while providing the contours in locations that permit increased gripping during the performance of exercise that may require increased grip.

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Claim 1 has additionally been amended to reflect that the plurality of contours is formed by a plurality of supplementary wefts thereby creating a textured effect. The plurality of supplementary wefts assist in providing a superior gripping surface that prevents slipping during the performance of exercise.

Patterson discloses a terry woven fabric that is used as a bath mat. The bath mat, as shown in Figure 1, has formed thereon a plurality of rectangular contours. Patterson does not have contours having "a longer dimension and a shorter dimension, wherein the longer dimension of each of said contours is oriented substantially perpendicular to the second edge of said exercise surface, wherein each said contour is substantially linear and substantially parallel to each other contour in the direction of said longer dimension." Instead the longer dimension in Patterson is formed parallel to what would be considered the second edge in Patterson since each contour in Patterson is rectangular shaped, to match the shape of the rug. Having contours formed in such a manner would interfere with the performance of certain yoga exercises for which the exercise mat of the instant invention is designed. Therefore, Patterson does not meet the limitation of claim 1 requiring that the contour have a longer dimension that is perpendicular to the second edge of the exercise surface.

Patterson further does not disclose having a plurality of contours formed by a plurality of supplementary wefts creating a textured effect. Instead, Patterson discloses creating contours with rows of pile or loops that presumably create a plush surface. The Applicant respectfully submits that for this additional reason Patterson does not anticipate claim 1.

The Applicant respectfully submits that Patterson does not meet the limitations of claim 1 as amended and requests notice to that effect. The Applicant additionally submits that claims 2-9, and 14-20 are also in condition for allowance by virtue of their dependence upon an allowable base claim.

3. Rejections under 35 U.S.C. § 103(a)

Claim 4 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Patterson. The Applicant respectfully submits that dependent claim 4 is also allowable for at least the reasons given above with respect to the discussion of the novelty of claim 1 over Patterson.

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To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 265 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

As argued in section 2 above, at least two features of claim 1, from which claim 4 depends, are not taught or disclosed by Patterson. The Applicant respectfully submits that since Patterson does not teach each and every limitation of claim 1 and the Office Action's suggested arguments for obviousness of claim 4 do not cure this deficiency, claim 4 is also in condition for allowance by virtue of its dependence upon claim 1.

Claims 14-16 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Patterson in view of U.S. Patent No. 6,372,323 to Kobe et al. (hereinafter "Kobe"). The Applicant respectfully submits that dependent claims 14-16 are also allowable for at least the reasons given above with respect to the discussion of the novelty of claim 1.

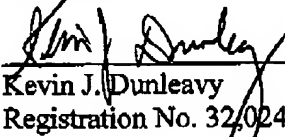
As argued in section 2 above, at least two features of claim 1 are not taught or disclosed by Patterson. Kobe is used by the examiner to teach the attachment of a separate layer of upstanding stems to the fabric in a regular or irregular array of stems. The teachings of Kobe, however, do not cure the deficiencies of Patterson with respect to claim 1, or render obvious newly amended claim 1. The Applicant respectfully submits that since Patterson does not meet each and every limitation of independent claim 1 and the teachings of Kobe do not cure the deficiencies of Patterson, a *prima facie* case of obvious is not established against claim 1, nor against claims 14-16 which depend from claim 1. Therefore claims 14-16 are allowable by virtue of their dependence upon an allowable base claim.

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4. Conclusion

Applicant has made an earnest effort to place this application in condition for allowance. If the Examiner feels that a telephone interview would expedite prosecution of this patent application, he is respectfully invited to telephone the undersigned at 215-599-0600.

Respectfully submitted,


Kevin J. Dunleavy
Registration No. 32,024

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KNOBLE YOSHIDA & DUNLEAVY, LLC
Eight Penn Center, Suite 1350
1628 John F. Kennedy Boulevard
Philadelphia, PA 19103
(215) 599-0600